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**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Veeneman, Thomas and Remington
Application No. 09/610,158
Filed: June 30, 2000
Attorney Docket No. 9203/046RE
For: Multi-Merchant Gift Registry

:
: DECISION REFUSING
: STATUS UNDER 37 CFR 1.47(a)
:

This is in response to the petition under 37 CFR 1.47(a), filed
January 25, 2001.

The petition is **dismissed**.

Petitioner is given TWO (2) MONTHS from the mailing date of this
decision to reply, correcting the below-noted deficiencies. Any reply
should be entitled "Request for Reconsideration of Petition Under
37 CFR 1.47(a)," and should address the deficiencies noted below,
except that the reply may include an oath or declaration executed by the
non-signing inventor. Failure to respond will result in abandonment of
the application. Any extensions of time will be governed by
37 CFR 1.136(a).

The above-identified reissue application was filed on June 30, 2000,
without an executed oath or declaration and naming William J.
Veeneman, Barbara Thomas and Debra Remington as joint inventors.
Accordingly, on August 1, 2000, a "Notice to File Missing Parts of
Application" was mailed, requiring an executed oath or declaration, a
\$130.00 surcharge, and a statement under 37 CFR 3.73(b).

In response, on January 25, 2001, petitioner filed the present petition, a
request for a four (4) month extension of time, a Declaration signed by
joint inventor Thomas, a copy of the Notice of Recordation of Assignment
Document, the Affidavit of David N. Johnson, and the requisite fees. In the
affidavit, Mr. Johnson states that both the non-signing inventors,
Mr. Veeneman and Ms. Remington, have by their actions and inactions,
constructively refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Petitioner lacks items (1) as set forth above.

As to item (1), petitioner fails to set forth a detailed account of the events that surrounded Ms. Remington's refusal to sign the declaration. In his affidavit, Mr. Johnson states that he communicated through Keith Fenhaus, the Executive Vice President of Applicant, with Debra Remington to request that Ms. Remington execute the Declaration for the present reissue application. Mr. Johnson further states that Ms. Remington failed to execute the Declaration for the present reissue application in a timely manner as required by the rules of the United States Patent and Trademark Office.

Section 409.03(d) of the Manual of Patent Examining Procedure states:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In the present case, Mr. Johnson does specify the circumstances of Ms. Remington's refusal to join in the application. It is unclear whether Mr. Johnson had firsthand knowledge of the pertinent events. Moreover, Mr. Johnson did not submit a statement from Mr. Fenhaus as to his conversation with Ms. Remington. Accordingly, petitioner has not met the requirements of 37 CFR 1.47(a), and thus, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy